



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,756	02/13/2001	Stevan P. Vasic	7885.5	9702

21999 7590 01/11/2005

KIRTON AND MCCONKIE
1800 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
P O BOX 45120
SALT LAKE CITY, UT 84145-0120

EXAMINER

MCCLELLAN, JAMES S

ART UNIT	PAPER NUMBER
----------	--------------

3627

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/782,756	Applicant(s) STEVEAN VASIC	
	Examiner James S McClellan	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-93 is/are pending in the application.
- 4a) Of the above claim(s) 1, 4, 7-9, 14, 15, 44, 59, 69, 70 and 86 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 10-13, 16-43, 45-58, 60-68, 71-85 and 87-93 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendment

1. Applicant's submittal of an amendment was entered on September 30, 2004, wherein:
claims 1-93 are pending;
claims 4, 7-9, 12, 14, 15, 44, 59, 69-78, and 86 have been withdrawn by previous amendment; and
claims 1, 18, 21, 31, 37, 47, 56, 64, and 79 have been amended.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 5, 10, 11, 13, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Georgetown University Online Payroll Publication (hereinafter "Georgetown") in view of U.S. Patent No. 6,006,207 (hereinafter "Mumick")

Georgetown disclose a method of payroll access comprising: receiving a request from an employee (see section 1010.3 "Requesting an Advance"); forwarding funds to the employ on demand (inherent); and deducting forwarded founds from the employee's payroll check (see section 1010.3 "Forward to Payroll"); employees can access wages not yet earned ("Payroll Advances"); said request is authenticated using an personal identification number (see section

Art Unit: 3627

1010.3, “social security number”); funds are forwarded all at once (inherent); deductions are from a single pay period (inherent); and said funds are limited to a predetermined amount (see section 1010.3 “80% of employee’s net biweekly or net monthly pay”).

Georgetown fails to explicitly disclose receiving an electronic request from an employee for access to the employee’s payroll. It is noted that Georgetown states that “written” requests are required to be submitted to his/her department head.

Mumick teaches the use of submitting a financial request electronically (see column 4, lines 6-15), wherein loans may be submitted by telephone, e-mail, or online over the Internet in real-time.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Georgetown with electronic requests as taught by Mumick, because submitting electronic requests, as opposed to written requests, reduces the time and effort necessary to submit a request since an electronic request is nearly instantaneous. Additionally, electronic requests are less likely to be lost or misplaced as compared to written requests.

4. Claims 19, 21, 22, 37, 38, 40, 41, 43, 48-51, 56, 57, 61, 62, and 65-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Georgetown in view of Mumick as applied to claimed rejected above in paragraph 8, and in further view of *Official Notice*.

Regarding **claims 19, 48, 65**, Georgetown/Mumick disclose all limitations as set forth above but fail to specifically disclose how funds are transferred.

The Examiner takes Official Notice that it is old and well known to transfer payroll funds via an electronic transfer.

Art Unit: 3627

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Georgetown/Mumick with an electronic transfer as is well known in the art, because electronic transfers expedites the payment process wherein reducing the requirement of the employee to deposit a physical paycheck.

The Examiner cites U.S. Patent No. 6,473,500 (hereinafter "Risafi") as factual evidence that payroll is often transferred electronically.

Regarding **claims 21, 22, 37, 50, 51, 56, and 68**, Georgetown/Mumick disclose all limitations as set forth above but fail to explicitly disclose that a transaction fee is imposed on the employee.

The Examiner takes Official Notice that is old and well known to charge a transaction fee for a payroll advance.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Georgetown/Mumick with a transaction fee as is well known in the art, because charging a transaction fee helps employers pay for the cost of conducting the transaction and also a fee discourages abuse of the payroll advance program.

The Examiner cites CMU document (see PTO-892 on 3/26/04) as factual evidence that it is old and well known to charge for payroll advances ("Account String to be charged \$25 Advance Fee").

Regarding **claims 49 and 66**, Georgetown/Mumick disclose all limitations as set forth above but fail to explicitly disclose specific limitations to the amount of funds available for advance.

Art Unit: 3627

The Examiner takes Official Notice that organizations limit the number of payroll advances an employee is granted in a give period of time (for example, 1 or 2 payroll advances per year is common).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Georgetown/Mumick with a predetermined advance limitation on frequency of payroll advances as is well known in the art, because limiting the frequency of payroll advances helps reduce the number of payroll advances processed and further prevents employees from regularly relying on advances for small emergencies.

The Examiner cites Lane Community College document as factual evidence that it is old and well known to limit the number of payroll advances extended to employees in a given period of time ("payroll advances...are limited to no more than two per fiscal year").

5. Claims 1, 2, 6, 16-18, 23-37, 39, 42, 45-47, 52, 53, 58, 60, 63, 64, 79-85, and 87-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,473,500 (hereinafter "Risafi") in view of Georgetown.

Risafi discloses a method and system for payroll access, wherein an employee access a payroll account via an ATM card (10) at an automated teller machine (106, see column 10, lines 15-17). Employers either deposit the net paycheck for a given pay period or a user selected amount into the payroll account (see column 18, lines 30-43). Fees (see column 14, line 14) may be charged by the bank (102) that issued the card (10). Transmission of request information is transmitted via the Internet (see paragraph bridging columns 11-12). Authentication is verified by the issuer via a PIN (see column 3, line 65). Payroll access is provided through a temporary

Art Unit: 3627

account (see column 8, liens 5-14) via a bank and funds are forwarded electronically. Payroll access is provided in real-time on demand (see column 14, lines 20-21).

Risafi fails to disclose an employee request for access to payroll prior in advance of the regular payday.

Georgetown discloses an employee requesting a payroll advance as described above.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Risafi to prosecute payroll advances as taught by Georgetown, in order to expedite payment of the advance.

Regarding new limitations (9/30/04 amendment), it is noted that Risafi discloses "electronic" requests for payroll access via an ATM.

6. Claim 54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Risafi in view of Georgetown as applied to claim 37 above, and further in view of *Official Notice*.

The combination of Risafi and Georgetown disclose all claimed element as set forth above, but fail to explicitly disclose posting payroll information on a secure website and granting access to other parties.

The Examiner takes Official Notice that it is old and well known for employees to post payroll information online and that employees may allow other parties (for example, the employee's spouse) access to the information.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Risafi/Georgetown with a payroll website as is well known in the art, because payroll websites allow employees to verify and modify payroll information, deductions, and allocations electronically. Additionally, accessing payroll information on online reduces the

Art Unit: 3627

costs by employer because the employer may not need to mail paper payroll stubs to their employees.

The Examiner cites U.S. Patent No. 6,401,079 (Kahn) as factual evidence that it is old and well known to display payroll data for access online (see paragraph bridging columns 50-51).

Response to Arguments

7. Applicant's arguments filed September 30, 2004 have been fully considered but they are not persuasive.

On page 25, third paragraph, Applicant notes that claims 18, 31, 47, and 64 have been amended to overcome claim objections. The claim objections are withdrawn.

On page 25, fifth paragraph, Applicant notes that claims 1, 37, 56, and 79 have been amended to overcome 35 U.S.C. § 101 rejections. The 35 U.S.C. § 101 rejections are withdrawn.

On pages 25-26, Applicant argues that the Georgetown publication fails to disclose an "electronic" payroll request as set required by the current amendment. Applicant's argument is moot in view of the new grounds of rejection necessitated by Applicant's amendment.

On page 27, second full paragraph, Applicant argues that the use of electronic transfer to fulfill a request for payroll advance was not obvious at the time. The Examiner respectfully disagrees. As set forth above, Risafi is cited as factual evidence that payroll is often transferred electronically.

Art Unit: 3627

On page 28, first paragraph, Applicant argues that there is no suggestion to combine electronic requests for payroll advance with EFT of the payroll advance. The Examiner respectfully disagrees. Electronic requests and EFT were both well known at the time the invention was made. There is nothing unique about payroll advances, as opposed to other payroll payments (salary, bonuses, etc.), that make them unavailable for electronic payment.

On page 28, second paragraph, Applicant argues that it is unlikely for an employer to charge a fee for processing a payroll advance. The Examiner respectfully disagrees. CMU publication is cited as factual evidence to support the Examiner's position (CMU charges a \$25 fee).

On page 29, first paragraph, Applicant argues that it is not old and well known to limit the amount of funds accessible. The Examiner respectfully disagrees. First, Lane is cited for disclosing limiting the number of payroll advances to "no more than two per fiscal year". Second, CMU is cited for disclosing limiting the payroll advance to 70% of the amount requested.

On page 30, third paragraph, Applicant argues that Risafi fails to disclose a system where "funds transfers are initiated by the employee, after preauthorization by the employer". In Risafi, the employee sends an electronic request for access to the employee's payroll when he uses the ATM. After access the ATM, the funds are forwarded to the employee. Finally, the funds forwarded to the employee are deducted from the employee's payroll amount.

On page 30, fourth paragraph (similar arguments on page 31, first full paragraph), Applicant argues that Risafi discloses payments only made on a regular basis. A full reading of

Art Unit: 3627

Risafi discloses the use of his payroll system for non-regular payments (“bonuses”, see column 18, lines 30-42).

On page 31, second paragraph, Applicant argues that since Risafi discloses a large number of embodiments, any combination based on obviousness would be hindsight. Risafi’s list of several embodiments is not a full list of all possible obvious variations. Given proper motivation, Risafi is combinable with other references. In this case, it would have been obvious to combine the teachings of Risafi and Georgetown based on the reasons set forth above in the rejection.

On page 32, fourth paragraph, Applicant traverses the Examiner’s use of Official Notice for claims 54 and 55. The Examiner relies on Kahn as factual evidence to support the use of Official Notice.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3627

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

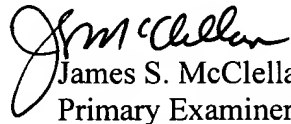
Any response to this action should be mailed to:

Commissioner of Patent and Trademarks
Washington D.C. 20231

or faxed to:

(703) 872-9306 (Official communications) or
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,
Arlington, VA, 7th floor receptionist.


James S. McClellan
Primary Examiner
A.U. 3627

jsm
January 5, 2005